

HOUSE BILL 1149

By Haston

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 4, Part 7, relative to course materials.

WHEREAS, the General Assembly is committed to the Tennessee Promise Scholarship program, which, since its inception in 2015, has enrolled over 88,000 students and helped our students cover over \$115 million in college costs; and

WHEREAS, regardless, cost is still a barrier to many individuals who seek to better their lives through education; and

WHEREAS, according to the Tennessee Higher Education Commission, during the 2018-2019 academic year, Tennessee students enrolled in public institutions spent an average of \$1,400 on course materials, and in the 2019 fall semester, the average cost of materials for community college students was \$119.18 per course; and

WHEREAS, we recognize that this cost presents a barrier as students attempt to succeed in coursework, contributing to decisions not to purchase required materials, to drop and withdraw from courses, and to avoid certain majors all together; and

WHEREAS, the General Assembly affirms its belief that the cost of course materials should not prohibit an individual from pursuing their desired educational and career goals and recognizes the need to use cutting-edge technologies and intentionally procure solutions that drive down or eliminate costs of course materials for all students; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-4-708(b), is amended by adding the following as new subdivisions:

() "Course materials" means materials indicated by an instructor on a course syllabus as required for a course taken by a Tennessee Promise scholarship student at an eligible public postsecondary institution. "Course materials" includes, but is not limited to, books both digital and physical, manuals, software, interactive software, art and lab supplies, and other supplies;

() "Equitable access to course materials" means that all Tennessee Promise scholarship recipients must have the same opportunity to use and study from the required course materials for any course;

() "Open educational resources" or "OER" means materials for teaching or learning that are either in the public domain or have been released under a license that allows them to be freely used, changed, or shared with others. "Open educational resources" includes materials ranging from a single video or lesson plan to a complete online course or curriculum and also includes the software platforms needed to create, change, and share the materials;

SECTION 2. Tennessee Code Annotated, Section 49-4-708, is amended by adding the following as a new subsection:

(i)

(1) The Tennessee higher education commission (THEC) shall develop a model program of equitable access to course materials. Eligible public postsecondary institutions shall adopt and implement THEC's model program of equitable access to course materials for each course offered by the institution for Tennessee Promise scholarship students. The model program of equitable access to course materials must be developed and implemented no later than the beginning of the 2022-2023 academic year.

(2)

(A) All required materials assigned in courses offered for Tennessee Promise scholarship students must be available to Tennessee Promise scholarship students through the model program of equitable access to course materials.

(B) Departments, schools, or other divisions of eligible public postsecondary institutions and instructors of courses offered for Tennessee Promise scholarship students may freely select the course materials required for the courses. The model program of equitable access to course materials does not restrict the academic freedom of instructors to choose how they teach their respective courses. Course materials selected for a course that are included in the model program of equitable access must be listed on the syllabus as the required course materials.

(C) Graduate courses and other courses at four-year public postsecondary institutions that are not offered for Tennessee Promise scholarship students do not have to be included in the institution's model program of equitable access to course materials, but may be included.

(3) The model program of equitable access to course materials developed by THEC must use open educational resources when appropriate.

(4)

(A) THEC shall select a vendor to provide course materials through the model program for equitable access to course materials pursuant to a competitive process prescribed by a request for proposal (RFP). The vendor selected must own and maintain a platform for the digital distribution of course materials.

(B) A vendor of course materials for courses offered at eligible public postsecondary institutions with a contract in effect on the effective date of this act may respond to the RFP. The vendor, when responding to the RFP, must waive the vendor's right under the contract to pursue an action for infringement, breach, or interference of its contract with the eligible public postsecondary institution that could otherwise be alleged as a result of any contract awarded to the vendor chosen under the RFP.

(5) THEC shall contract with the vendor of course materials selected pursuant to subdivision (i)(4) for the provision of all course materials required for courses offered to Tennessee Promise scholarship students at eligible public postsecondary institutions. Under the contract, TSAC shall reimburse the vendor for the cost of the course materials supplied to Tennessee Promise scholarship students with funds from the Tennessee Promise special reserve account.

(6)

(A) The vendor selected pursuant to the RFP shall provide all materials in the model program of equitable access to course materials digitally whenever digital materials are available. If digital materials are not available, then the vendor shall provide the course materials in physical format.

(B) The vendor shall negotiate with at least ten (10) publishers of course materials that have the largest number of sales to eligible public postsecondary institutions in the state for:

(i) Payment at a flat rate per unit for all digital materials furnished by the publishers;

(ii) All of publishers' available content, or the newest editions of all content, required for courses offered for Tennessee Promise scholarship students, to be made available to students digitally; and

(iii) Students to have perpetual access to publishers' eBooks available at no additional cost.

(C) If a publisher refuses to agree to the terms in subdivision (i)(6)(B), then the vendor shall provide the required course materials. THEC will not reimburse the vendor for the course materials. THEC must notify the eligible public postsecondary institutions and instructors requesting the course materials that the instructors may select the course materials, but students are responsible for purchasing course materials that are not provided through the model program for equitable access to course materials.

(7) If a public institution of higher education chooses to make the model program of equitable access to course materials available to students who are not Tennessee Promise students, then the vendor may charge the students to access or obtain course materials provided through the model program at a competitive market rate.

(8) The vendor selected pursuant to the RFP shall establish an OER fund. The vendor shall deposit an amount per Tennessee Promise scholarship student in the fund annually. THEC and the vendor shall negotiate the amount per student to be deposited. The vendor shall distribute the funds annually to OER publishers with content selected by eligible public postsecondary

institutions and instructors as the required course materials in courses offered for Tennessee Promise scholarship students pursuant to a plan approved by THEC.

(9) The vendor must provide Tennessee Promise scholarship students with course materials at no cost to the students. TSAC shall not reimburse the vendor for the cost of course materials provided by the vendor to students who are not Tennessee Promise scholarship students. The vendor may charge students who are not Tennessee Promise scholarship students the costs of any course materials provided to such students.

(10) The model program of equitable access to course materials is subject to audit by the comptroller of the treasury.

SECTION 3. This act is not an appropriation of funds, and funds shall not be obligated or expended pursuant to this act unless the funds are specifically appropriated by the general appropriations act.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.